



4410-15

DEPARTMENT OF JUSTICE

NOTICE OF LODGING OF PROPOSED CONSENT DECREE
UNDER THE CLEAN AIR ACT

On September 24, 2018, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Columbia in the lawsuit entitled *United States of America v. Derive Systems Inc. et al.*, Civil Action No. 1:18-cv-2201.

The Complaint in this Clean Air Act case was filed against the Defendants concurrently with the lodging of the Proposed Consent Decree. The Complaint alleges that Defendants, Derive Systems, Inc. and its related subsidiaries, are civilly liable for violations of Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B). The Complaint alleges that Defendants manufactured and sold at least 363,000 aftermarket products that contained components that have a principal effect of bypassing, defeating, and rendering inoperative emission controls installed on motor vehicles or motor vehicle engines, and that Defendants knew or should have known that its products were being put to such use.

Under the Proposed Consent Decree, the Defendants will pay a civil penalty and implement measures to comply with the Clean Air Act. For instance, Defendants must remove components from their products that permit the deletion of exhaust gas recirculation, oxygen sensors, and related diagnostic features. Defendants are prohibited from manufacturing or selling products that permit the deletion of certain emission control features such as selective catalytic reduction, diesel particulate filters, and diesel oxidative catalysts. Defendants must also demonstrate a reasonable basis that their products do not adversely affect emissions performance by performing emission testing. Derive must also limit access to certain software features to those customers that certify their products comply with the Clean Air Act and attend a Derive

mandated training. Derive agrees to also revise internal sales and training policies. Defendants must also pay \$300,000 in civil penalties based upon Defendants' demonstrated inability to pay a higher penalty. The Proposed Consent Decree will resolve all Clean Air Act claims alleged by the United States against Defendants through the date the United States filed the Complaint.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Environmental Enforcement Section, and should refer to *United States v. Derive Systems, Inc. et al.*, D.J. Ref. No. 90-5-2-1-11627. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
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Environment and Natural Resources Division

[FR Doc. 2018-21081 Filed: 9/26/2018 8:45 am; Publication Date: 9/27/2018]